

P3, B11

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**Subject:** Council Meeting Testimony - FOR override Bill 11 veto  
FOR override of the mayoralty veto of Bill 11.

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There are many reasons, liability risk, legal, economic, and cultural respect-based, that strongly demand enacting Bill 11 into law now.

The most compelling to City and its taxpayers are the issues of Liability that ensue in at least two dimensions.

First, City is exposed to potential land-recovery lawsuit on the part of the families and churches displaced when City condemned the land that became Kailua Beach Park. The persistent, endemic, well-publicized failure of City to uphold the 'no private business' consequence of condemnation give former owners the right to seek redress.

Second, City is exposed to lawsuit should injury of death occur to a customer of the unpermitted businesses; all of the businesses except windsurfing are unpermitted. Lack of permitting overview and business discipline prevents City from ensuring that sufficient insurance is in place naming, as Additional Insured, "City, its Officials, Agents, and Assigns..." With the widespread and common knowledge of the acceptance of illegal business operations, without corrective action, the liability risk looms incredibly large.

Bill 11 enables the necessary Law Enforcement, removing doubt and significantly easing the interpretation task of Prosecutor or HPD, as Bill 11 clearly states that there will be no commercial business. Bill 11 is not new law, but simply a restatement of the overlapping fundamental, State, and City law already on the books. Violators will be denied the umbrella of legal confusion shielding them today.

The 'veto' argument by Mayor was speculative, ill-founded, and of no merit; its lack of endorsement by Corp Counsel is telling. The one value in the press conference was Mayor's acknowledgement that the commercial activity is illegal, has always been illegal, and that increased Law Enforcement is necessary. Bill 11 is a major step in that direction as above. Bill 11 reminds everyone that commercial activity is simply kapu, and there is no escape clause...making the officer's and prosecutor's jobs far easier. Furthermore, Bill 11 sets the stage for budget request for increased police manpower to sustain the future.

Bill 11 is not about Tourism. Don't let 'anti-tourism' arguments cloud the issue. Certainly we have to work together on positive, sustainable growth in Tourism, and enjoyment of Kailua's natural environment must play a part. Illegal, unpermitted, uncontrolled, business being conducted on public-only land is not a reasonable contribution to good tourism.

Last I will list – it should be first – is respect for the people of Kailua, local culture, our environment, and our future. The illegal businesses respect none of that, exploiting the public trust for private gain while trampling the environment and spoiling the future. The argument that these illegal businesses provide jobs is as hollow as saying that prostitution provides jobs.

Enlightened and culturally-appropriate tourism is a fantastic subject which we must embrace and develop. Let's do that with all sincerity and drive great sustainable prosperity. But let's set the record straight first and get Bill 11 enacted, clear away the illegal operations, and set the stage for the future.

Ku Pa'a Kailua, Kailua Canoe Club, and the people of Kailua want you to get Bill 11 onto the books by overriding the veto.

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